

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

BARBARA SCHWAB, et al.,)
individually; and on behalf of a class of all)
others similarly situated,) Case No. CV-04-1945 (JBW) (SMG)
Plaintiffs,)
v.)
PHILIP MORRIS USA, INC., et al.,)
Defendants.)

**PLAINTIFFS' MOTION FOR COLLATERAL ESTOPPEL
AND PARTIAL SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56, and for the reasons set forth in the accompanying memorandum of law, Plaintiffs respectfully request that this Court preclude Philip Morris from relitigating the finding that it conspired with the other tobacco companies to defraud the American public about the health effects of smoking, and enter an order granting Plaintiffs' partial summary judgment as to Defendant's liability on this issue. A proposed order is submitted herewith.

Dated: July 22, 2005

Respectfully submitted,

/s/ Michael D. Hausfeld

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